

Dec 14 11:00 AM



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

MAY 22 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Andrew Johnson
686 County Road 260
Fort Bridger, WY 82933

Re: Letter of Potential Violation of the Clean
Water Act

Dear Mr. Johnson:

This letter concerns the apparent discharge of dredged and fill material into Six Mile Creek on property owned, controlled, and/or operated by you in the SW 1/4 of the NE 1/4, Section 30, Township 15 North, Range 115 West, Uinta County, Utah (the Site). Based on our review of all information currently in our possession, the United States Environmental Protection Agency (the EPA) believes that you may be in violation of the Clean Water Act, as amended (CWA). The CWA requires that an authorizing permit be obtained from the United States Army Corps of Engineers (the Corps) prior to the discharge of pollutants (i.e., dredged or fill material) into waters of the United States. See 33 U.S.C. §§ 1311 and 1344. As defined in 40 C.F.R. § 122.2 and 33 C.F.R. § 328.3, waters of the United States include certain surface waters and wetlands.

Specifically, on October 11, 2012, the Corps inspected the Site and observed that approximately twelve cubic yards of dredged or fill material had been discharged below the ordinary high water mark of Six Mile Creek during the construction of a pond, resulting in the filling of a 40-foot reach of the creek and inundation of a reach of the creek more than 785 feet in length. These activities were apparently performed without authorization by a permit issued by the Corps and impacted what is believed to be a water of the United States. If this is the case, you are in violation of section 301 of the CWA, 33 U.S.C. § 1311.

The EPA is in the process of making a final determination as to whether you are in violation of the CWA. The EPA would like to consider any information that you believe demonstrates that the description above is incorrect or that the activities described above do not constitute a violation of the CWA. If you would like to submit any information to be considered by the EPA prior to the EPA making a final determination, please provide such information within 21 calendar days of receipt of this letter to Richard Clark, Wetland Coordinator, at the address shown above. Please note that the voluntary



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submission of this information does not preclude the EPA's use of its authority to issue a request for information pursuant to section 308 of the CWA, 33 U.S.C. § 1318.

The EPA invites you to discuss this matter prior to its making a final determination. If it is determined that you are not responsible for any violation, no further action will be required. If the EPA does make a final determination that you are liable for a CWA violation, section 309 of the CWA, 33 U.S.C. § 1319, grants the EPA the authority to refer the matter to the U.S. Department of Justice. Alternatively, the EPA, using its authority under section 309(a) of the CWA, 33 U.S.C. § 1319(a), may issue a unilateral compliance order to you which you may contest through a formal judicial adjudicative process, or, if you agree, the EPA may enter into an administrative order on consent (AOC) with you. Both the unilateral compliance order and the AOC would require that you take steps to come into compliance with the CWA. If you are interested in negotiating the terms of an AOC with the EPA, please inform either of the EPA contacts listed below of that interest within 21 calendar days of receipt of this letter. All AOCs must include provisions waiving the right to administrative or judicial review of the AOC under the Administrative Procedure Act (APA) and acknowledging the EPA's authority to issue the AOC. However, you need not admit CWA liability in the AOC.

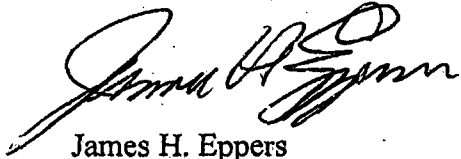
Under section 309(g) of the CWA, 33 U.S.C. § 1319(g), the EPA may also assess an administrative penalty against you if it makes a final determination that you have violated the CWA. Prior to proposing such an assessment, which you would have the right to contest through an administrative adjudicative process, the EPA would be open to discussing the terms of a mutually acceptable penalty settlement, the terms of which would be incorporated into a combined complaint and consent agreement (CCCA) which would be signed by both you and the EPA. In a CCCA, you must waive any right to contest the allegations and to appeal the agreement. As with the AOC, you need not admit CWA liability in a CCCA.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. Please note that the EPA has not made a determination that a small business is involved in this matter, and SBREFA does not eliminate the responsibility to comply with the CWA.

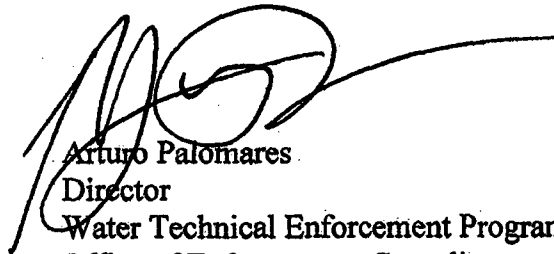
If you have any questions regarding this Letter of Potential Violation, the most knowledgeable people on our staffs are Wendy Silver, Senior Attorney, at 303-312-6637 and Richard Clark, Wetland Coordinator, at 303-312-6748.

We appreciate your prompt attention to this matter.

Sincerely,



James H. Eppers
Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice



Arturo Palomares
Director
Water Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Enclosure

cc: Kevin Little, U.S. Army Corps of Engineers

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline - to report oil and hazardous substance spills

www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996